

**SEVENTY-FIFTH DAY**

(Continued)

(Monday, May 22, 1995)

**AFTER RECESS**

The Senate met at 7:45 a.m. and was called to order by Senator Harris.

**LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

Pursuant to Senate Rule 9.03(d), the following bills were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time, and passed (vote on Constitutional Three-Day Rule and final passage indicated after the caption of each bill):

**H.C.R. 4** (Armbrister) Authorizing the State Preservation Board to provide for the planting of a tree on the Capitol grounds in memory of Dorothy Sanders. (vv)

**H.C.R. 92** (Wentworth) Establishing the Governor's Awards for Excellence in the Arts, Humanities, and Sciences. (vv)

**C.S.H.C.R. 186** (Montford) Endorsing and announcing the Sesquicentennial Committee's creation and appointment of the Events Subcommittee for the observance of the State of Texas Sesquicentennial. (vv)

**H.B. 238** (Barrientos) Relating to the use of assistance dogs for persons with disabilities; providing an offense. (31-0) (31-0)

Senator Barrientos offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **H.B. 238** as follows:

In **SECTION 1** of the bill, Section 121.002, Human Resources Code, strike proposed Subsection (6), and renumber subsequent subsections accordingly.

In **SECTION 2** of the bill, Section 121.003, Human Resources Code, strike proposed Subsection (1), and renumber subsequent subsections accordingly.

The committee amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **SECTION 2** of **H.B. 238**, Section 121.003, Human Resources Code, as follows:

In proposed Subsection (m) of Chapter 121.003, Human Resources Code, after the word "harass," insert "interfere with,".

The committee amendment was read and was adopted by a viva voce vote.

**H.B. 941** (West) Relating to the service and return of a subpoena in a criminal proceeding. (31-0) (31-0)

**H.B. 1329** (Leedom) Relating to cancellation of certain alcoholic beverage licenses for failure to pay local fees. (31-0) (31-0)

**H.B. 1405** (Armbrister) Relating to facility response plans for hazardous liquids pipelines. (31-0) (31-0)

Senator Armbrister offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **H.B. 1405** by striking subsection (e) of Section 117.012 in SECTION 1 of the bill and substitute the following:

"(e) Rules relating to facility response plans shall be consistent with the provisions of the federal Water Pollution Prevention and Control Act, 33 U.S.C. Sec. 1321(j)(5). Rules shall provide that, in lieu of submitting a plan for approval under Subsection (a), a facility may submit a facility response plan prepared in compliance with the Water Pollution Prevention and Control Act, 33 U.S.C. Sec. 1321(j)(5). A plan approved or pending approval by the United States Department of Transportation Office of Pipeline Safety shall be deemed approved by the commission for the purposes of this section."

The committee amendment was read and was adopted by a viva voce vote.

**H.B. 1434** (Ellis) Relating to the claiming of the exemption from ad valorem taxation provided for certain property of a medical center development. (31-0) (31-0)

**H.B. 1644** (Zaffirini) Relating to the improper disposal of medical waste; providing criminal penalties. (31-0) (31-0)

(Senator Moncrief in Chair)

**H.B. 1698** (Barrientos) Relating to requiring a health and human services agency to inform certain clients or patients of community-based service options. (31-0) (31-0)

Senator Barrientos offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **H.B. 1698** in SECTION 1, Art. 4413(502), Revised Statutes, Sec. 22 as follows:

On page 1, line 12 of the House engrossed version, after "placed in a", strike "long term residential".

The committee amendment was read and was adopted by a viva voce vote.

**H.B. 1763** (Rosson) Relating to allowing the holder of a brewpub license to participate in an organized competition, review, or judging. (31-0) (31-0)

**H.B. 1770** (Ellis) Relating to the ability of voters in certain counties to petition a commissioners court to increase the salary of members of the county sheriff's department. (31-0) (31-0)

Senator Ellis offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **H.B. 1770** by creating a new Section 3 to read as follows and renumbering all following sections appropriately:

SECTION 3. Section 157.021, Local Government Code, is amended to read as follows:

Sec. 157.021. HOURS OF WORK OF COUNTY EMPLOYEES [~~IN COUNTIES OF 355,000 OR MORE~~]

(a) In a county with a population of 355,000 or more, the commissioners court may adopt and enforce uniform rules on the hours of work of department heads, assistants, deputies, and other employees whose compensation is set or approved by the court.

(b) The commissioners court of any county may adopt and enforce uniform rules on overtime and compensatory time for department heads, assistants, deputies and other employees whose compensation is set or approved by the commissioners court. The rules may:

(1) prohibit unbudgeted overtime, except when the commissioners court or an elected county or district officer declares an emergency; and

(2) require that emergency overtime be reported to the county auditor and the commissioners court.

The committee amendment was read and was adopted by a viva voce vote.

**C.S.H.B. 2027** (Gallegos) Relating to the regulation of tanning facilities; providing civil and administrative penalties. (31-0) (31-0)

**H.B. 2230** (Armbrister) Relating to the election of commissioners of the Calhoun County Navigation District. (31-0) (31-0)

**H.B. 2314** (Lucio) Relating to the election of the members of the board of trustees of South Texas Community College. (31-0) (31-0)

**H.B. 2365** (Lucio) Relating to county licenses for business establishments on public beaches. (31-0) (31-0)

**H.B. 2943** (Barrientos) Relating to public retirement systems for employees of certain municipalities. (31-0) (31-0)

Senator Barrientos offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend H.B. 2943, in SECTION 1 of the bill, amending Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), as follows:

(1) Strike proposed Section 2(39) of Article 6243n (House engrossment, page 10, lines 11-24) and substitute the following:

~~(39) [(29)] "Regular full-time employee" means an individual who is employed by the city, a hospital authority, or the board;[;] who is not a commissioned civil service police officer or fire fighter, a fire or police cadet employed under civil service procedures, the mayor, or a member of the governing body; who [city council, whose position] is classified in the annual [city, board, or hospital authority] budget of an employer for employment for the full calendar year;[; whose position is classified in the annual city, board, or hospital authority budget to continue from year to year,] and who works 30 hours or more in a normal 40-hour work week. The term does not include an individual whose position is classified as seasonal or temporary by the employer [city, a hospital authority, or the board], even if the individual works 30 hours or more in a normal 40-hour work week in which the individual is employed.~~

(2) In proposed Section 7(d) of Article 6243n, strike Subdivision (2)(C) (House engrossment, page 32, lines 1-13) and substitute the following:

~~(C) The amount of the adjustment for each retired member or beneficiary shall be a uniform percentage of the monthly payment being received by a member, or by a beneficiary by reason of a member, who was retired at least one year before the adjustment and may not exceed six percent of the monthly payment due the retired member or beneficiary before the adjustment. For members who retired during the year in which the adjustment is authorized, the increase for the first year in which the adjustment is being paid shall be prorated in the ratio that the number of completed months after the member's retirement in the year of the member's retirement bears to 12. After the first year the member is entitled to the full amount of any [the] adjustment without proration.~~

(3) In proposed Section 12 of Article 6243n, strike Subsection (d) (House engrossment, page 62, line 17, through page 63, line 13) and substitute the following:

~~(d) Notwithstanding any other provision in this Act to the contrary, in the event of a termination of the retirement and pensioning system, the benefit of any highly compensated employee or former employee is limited to a benefit that is nondiscriminatory under Section 401(a)(4) of the code. Benefits distributed to any of the 25 most highly compensated active and former highly compensated employees are restricted such that the annual payments are no greater than an amount equal to the payment that would be made on behalf of an employee under a single life annuity that is the [A member who is entitled to a benefit, including a benefit consisting solely of a distribution of the member's accumulated deposits, from the system may instruct the system to pay the single lump-sum] actuarial equivalent of the sum of the employee's accrued benefit and the employee's~~

other benefits under the plan. The preceding sentence shall not apply if: (1) after payment of the benefit to an employee described in that sentence, the value of plan assets equals or exceeds 110 percent of the value of the current liabilities, as defined in Section 412(l)(7) of the code, or (2) the value of the benefits for an employee described in that paragraph is less than one percent of the value of current liabilities. For purposes of this subsection, benefit includes loans in excess of the amount set forth in Section 72(p)(2)(A) of the code, any periodic income, any withdrawal values payable to a living employee and any death benefits not provided for by insurance on the employee's life.

(4) At the end of proposed Section 12 of Article 6243n (House engrossment, page 64, between lines 26 and 27), insert the following:

(f) The retirement system shall add six months to the membership service of any member who was involuntarily terminated by an employer for nondisciplinary reasons during the period beginning April 1, 1995, and ending September 30, 1995. The current service annuity of a member who is described by this subsection and who is eligible for retirement will be equal to one-twelfth of the product of 2.3 percent of the member's average final compensation multiplied by the sum of the number of months of membership service.

The committee amendment was read and was adopted by a viva voce vote.

**H.B. 3062** (Wentworth) Relating to the windows and windshields of certain law enforcement vehicles. (31-0) (31-0)

#### **BILLS REMOVED FROM LOCAL AND UNCONTESTED BILLS CALENDAR**

<u>Number</u>	<u>Senators Removing</u>
H.B. 325	Truan, Harris
H.B. 2446	Gallegos, Ellis

#### **CONCLUSION OF SESSION FOR LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

#### **ADJOURNMENT**

On motion of Senator Truan, the Senate at 7:57 a.m. adjourned until 10:00 a.m. today.

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#### **APPENDIX**

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#### **REPORTS OF STANDING COMMITTEES**

The following committee reports were received by the Secretary of the Senate:

May 19, 1995

HEALTH AND HUMAN SERVICES — C.S.H.B. 883, H.B. 1108, H.B. 1109, H.B. 1053, H.B. 1649, H.B. 76, H.B. 1362

FINANCE — H.J.R. 35, H.B. 3079 (Amended), H.B. 399, H.B. 2747, C.S.H.B. 735, C.S.H.B. 632

INTERGOVERNMENTAL RELATIONS — H.B. 943 (Amended), H.B. 2969 (Amended), H.B. 1361, H.B. 2345, H.B. 2034, H.B. 2980, H.B. 3143, H.B. 2873, H.B. 1844, H.B. 375, C.S.H.B. 3232, C.S.H.B. 52, C.S.H.B. 1541, C.S.H.B. 2758

#### SEVENTY-SIXTH DAY

(Monday, May 22, 1995)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Ellis, Gallegos, Galloway, Harris, Haywood, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Nixon, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

The Right Reverend Maurice M. Benitez of Austin, retired Bishop, Episcopal Diocese of Texas, offered the invocation as follows:

Almighty God, our heavenly Father, bless each of the Senators who gather here, along with the members of their support staffs, in the work that is before them this day. Have mercy upon them in the difficult decisions that they must make, and give them the courage to seek the harder right rather than the easier wrong.

Lord God, enable them to prefer losing today in a cause that is right and which will ultimately prevail, than to win today in a cause that is wrong, and which will eventually fail.

Finally, give to them Your spirit throughout this day that they may see themselves here, not only to serve the good of the people of Texas, but most of all, Lord God, to see themselves here as Your servants, seeking to make this a finer, a more loving, a more righteous, a better world.

In the name of Him who is the Way, and the Truth, and the Life. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of Friday, May 19, 1995, was dispensed with and the Journal was approved.